

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

2018 JUL -6 PM 4: 20

CLERK

BY AW
DEPUTY CLERK

FAROULH DORLETTE,

Plaintiff,

v.

JASON A. RICHARDSON, NORTHERN
STATE CORRECTIONAL FACILITY,

Defendants.

Case No. 2:17-cv-203

**OPINION AND ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**
(Docs. 10 & 27)

This matter came before the court for a review of the Magistrate Judge's May 10, 2018 Report and Recommendation ("R & R") (Doc. 27), in which he recommended that the court deny as moot Defendant Jason A. Richardson's motion to dismiss Plaintiff Faroulh Dorlette's initial Complaint. (Doc. 10.) Neither party has filed an objection to the R & R, and the time period to do so has expired.

A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1); *Cullen v. United States*, 194 F.3d 401, 405 (2d Cir. 1999). The district judge may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1); *accord Cullen*, 194 F.3d at 405. A district judge, however, is not required to review the factual or legal conclusions of the magistrate judge as to those portions of a report and recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985).

On January 19, 2018, Defendant filed a motion to dismiss Plaintiff's initial Complaint for failure to state a claim upon which relief may be granted pursuant to Fed.

R. Civ. P. 12(b)(6). Thereafter, Plaintiff filed an Amended Complaint (Doc. 13). On April 9, 2018, Plaintiff filed a motion to amend the Amended Complaint, which the Magistrate Judge granted in his May 10, 2018 R & R. Because Plaintiff's Second Amended Complaint supersedes his original Complaint, the Magistrate Judge correctly concluded that Defendant's motion to dismiss the initial Complaint is moot. *See Hancock v. Cty. of Rensselaer*, 882 F.3d 58, 63 (2d Cir. 2018) ("It is well settled that an amended pleading ordinarily supersedes the original and renders it of no legal effect[.]") (internal quotation marks omitted).

CONCLUSION

For the foregoing reasons, the court hereby ADOPTS the Magistrate Judge's R & R (Doc. 27) as the court's Order and Opinion, and DENIES AS MOOT Defendant's motion to dismiss the initial Complaint. (Doc. 10.)

SO ORDERED.

Dated at Burlington, in the District of Vermont, this 6th day of July, 2018.



Christina Reiss, District Judge
United States District Court